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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/788,261	02/19/2001	Matthias Krull	1997DE403C/CIP	4929

25255 7590 05/30/2002

CLARIANT CORPORATION  
INTELLECTUAL PROPERTY DEPARTMENT  
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EXAMINER

MEDLEY, MARGARET B

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 05/30/2002

8

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/788 261

Applicant(s)

KRULL et al

Examiner

MEDLEY

Group Art Unit

1714

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 01/22/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-17 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☐ Claim(s) is/are allowed.
- ☒ Claim(s) 1-17 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1714

### DETAILED ACTION

The 35 USC and the 112-second paragraph rejections of claims 6-17 are deemed to be moot in view of applicants' amendment to the said claims.

The obviousness-type double patent rejection over Parent Application No. 09/111,548 is deemed to be moot in view of applicants' abandonment of the said application.

The obviousness-type double patent rejection over Application No. 09/706,656 is deemed to be moot in view of filing of a proper executed Terminal Disclaimer along with the proper fee.

oK Claim 1 is objected to because of the following informalities: The correct spelling of "and" should be made in line 21 after "4" for the definition of R3. Appropriate correction is required.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7 and 8 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Art Unit: 1714

The subject matter of claim 7 (and its dependent claim 8) that "wherein the structural units under (B) are selected from the group consisting of ..., 5 carbon atoms" is not properly described and consequently raise doubt as to possession of the claimed invention at the time of filing. The disclosure in the second full paragraph at lines 14-21 on page 9 of the instant application provides enablement for the "further comonomers" in line 1 of instant claim 1, but does not provide enablement for the structural units under B).

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mitsubishi Petrochemical Co. Ltd. EP 217,602 in view of Admitted Prior Art and Reimann et al (Reimann) 5,254,652 as applied to claims 1-17 above, and further in view of Brown et al (Brown) WO 95/23,200.

The relied on Prior Art (EP 217,602, the Admitted Prior Art and US 5,254,652) is silent to a mineral oil having the following features: a cloud point below - 8 degrees Centigrade, and 95% distillation point of less than 350 degree Centigrade, and a sulfur content of less than 500 ppm.

Brown's teaches and discloses fuel oil having a sulfur content of less than 0.01% weight, page 21, lines 9-11, a cloud point below -10 degree Centigrade, page 3, lines 17-20, a boiling range (90-20%) of less than 120 degree Centigrade, a 95% distillation point of less than 350 degree Centigrade and a difference between CFPP and PP of less than 10 degree Centigrade, page 3, lines 1-7, Examples A-D in Table 2 on page 25 and page 20, lines 6-end, and a low temperature flow improver comprising ethylene/unsaturated ester copolymers, page 11, line 21 to page 12, line 16. The said

Art Unit: 1714

mineral oils are the same minerals oils of the Admitted Prior Art relied on in the previous art rejection set forth in Paper No. 4, dated August 21, 2001. The said low temperature flow improvers are the same flow improvers of the relied on prior art, as well as, those of the instant claims of record. It would be obvious to the artisan in the art to use the mineral oils of Brown and low temperature flow improvers of the Admitted Prior Art as the mineral oils and low temperature flow improver of the primary reference with the reasonable expectation that their additives will impart low temperature flow improving properties to the mineral oil fuel composition. Brown and the Admitted Prior Art of record establish the state of the art knowledge at the time of filing of the claimed invention that the mineral oils having the same properties of the instant claims is old and well-known and that the said mineral oils are commercially available to the public.

Applicant's arguments filed January 22, 2002 have been fully considered but they are not persuasive.

Applicants allege that the present claims do not require the presence of vinyl acetate. It is pointed out to applicants that their instant claims contain the language "consisting essentially of" B (a) and (b) and up to 5% by weight of further comonomers that would not exclude vinyl acetate of the of the relied on prior art made of record and relied upon in the art rejections made of record.

Applicant's arguments with respect to claims 1-17 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret B. Medley whose telephone number is (703)

Art Unit: 1714

308-2518. The examiner can normally be reached on Monday--Friday from 7:30 a.m. to 6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

M.B, Medley//dh  
May 29, 2002

  
**MARGARET MEDLEY**  
**PRIMARY EXAMINER**